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FISCAL IMPACT STATEMENT

LS 7372

BILL NUMBER: SB 268

NOTE PREPARED: Apr 29, 2005

BILL AMENDED: Apr 28, 2005

SUBJECT: Cloning.

FIRST AUTHOR: Sen. Miller

FIRST SPONSOR: Rep. T Brown

BILL STATUS: Enrolled

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill declares that human cloning is against public policy. The bill prohibits the state, a state educational institution, or a political subdivision of the state from using resources to knowingly participate in human cloning activities. The bill also requires the State Department of Health to revoke the license of a hospital that knowingly allows human cloning activities. It requires the Medical Licensing Board to revoke the license of a physician who knowingly participates in human cloning.

The bill allows Indiana University to establish an adult stem cell research center. It also defines adult stem cell and fetal stem cell and provides that research on these types of stem cells is not included in the definition of cloning. The bill makes: (1) the unlawful participation in; (2) the implantation of or the attempt to implant the product of; and (3) the shipment or receipt of the product of; human cloning a Class D felony. It also makes the purchase or sale of a human ovum, zygote, embryo, or fetus a Class C felony.

The bill also requires the State Department of Health to report to the Legislative Council concerning the feasibility of the state establishing an embryo adoption bank.

Effective Date: Upon passage; July 1, 2005.

Explanation of State Expenditures: This bill prohibits the state or any political subdivision from using any public funds, facilities, or employees to support any activities related to the cloning of a human being. This provision prohibits the administrative agencies, universities, and local governmental units from spending state funds or devoting state resources to a specified activity. The extent of general cloning research being done at state-sponsored universities is unknown.

The bill defines adult stem cell and fetal stem cell and specifies that these types of stem cell research are not included in the definition of cloning. The bill also allows the board of trustees of Indiana University to establish an adult stem cell research center under the administration of the School of Medicine. No state funding is included in the bill to support the adult stem cell research center although the board of trustees is authorized to receive, accept, hold, and apply donations, bequests of funds, property, gifts, and other income to support the center.

The bill also requires the State Department of Health to revoke the license of a hospital if the State Health Commissioner proves by a preponderance of the evidence that the hospital knowingly allows the hospital facilities or hospital employees, within the scope of their employment, to be used for or to participate in cloning or attempted cloning of a human being. The impact of a hospital license revocation would be dependent upon individual circumstances. The revocation process is administrative in nature and could potentially require additional resources for the State Department of Health.

The bill further requires the Medical Licensing Board to revoke a physician's license if the Attorney General, after appropriate notice and the opportunity for a hearing, proves by a preponderance of the evidence that the physician knowingly participates in or otherwise supports research or other activities facilitating the cloning of a human being. This provision could result in additional administrative expenses for the Attorney General's office and the Health Professions Bureau, depending on the number of cases that might be investigated.

The bill requires the State Department of Health to investigate the feasibility, costs, and legal implications of establishing an embryo adoption bank. The Department is required to report the results of the investigation to the Legislative Council before November 1, 2005.

The bill also specifies that the Class C felony established for the purchase or sale of a human ovum, zygote, embryo, or fetus does not apply to the transfer of up to \$3,000 for travel and medical expenses and loss of earnings made to donors of ovum for infertility procedures and for certain types of stem cell research.

Penalty Provisions: A Class C felony is punishable by a prison term ranging from two to eight years depending upon mitigating and aggravating circumstances. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$21,514 in FY 2004, ranging from a low of \$16,645 to a high of \$49,281. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class C felony offenders is approximately two years. The average length of stay for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: *Penalty Provisions:* If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class C and a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: *Penalty Provisions:* If more defendants are detained in county jails prior

to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: *Penalty Provisions:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Attorney General; State Department of Health; Department of Correction; Medical Licensing Board.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association, Department of Correction.

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